



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF ENFORCEMENT

November 19, 1991

MEMORANDUM

SUBJECT: Eagle-Picher Industries Bankruptcy

FROM: John H. Wheeler, Senior Attorney
Special Litigation Branch
OE-Superfund

TO: Margaret Cardamone, Region III (Transicoil)
Kurt Lindland, Region V (Albion-Sheridan Landfill)
Steve Kaiser, Region V (Fisher-Calo)
Ben Harrison, Region VI (Tar Creek)
E. Jane Kloeckner, Region VII (Cherokee County,
Jasper County)
William H. Ward, Region VII (Joplin Electronics)
Alicia N. Hoegh, Region VIII (Colorado Springs)

Attached are copies of the letter from the Office of Enforcement requesting DOJ file a Proof of Claim in the Eagle-Picher Bankruptcy case and the Proof of Claim that was filed.

We plan to meet with Eagle-Picher early in December to discuss settlement of our claims. I will keep you informed of the progress of the negotiations.

If you have any questions, you may call me at 260-3056, or Lisa Comer at 260-8033, or Sam Blesi, the DOJ attorney assigned to the case, at 368-1466.

Attachments

cc: Sam Blesi, Department of Justice
Dan Dickson, Office of Waste Programs Enforcement
Jan Nation, ORC, Region III
Andrea Madigan, ORC, Region IV
Roger Grimes, ORC, Region V
Terry Sykes, ORC, Region VI
Brenda Harris, ORC, Region VIII



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 31 1991

OFFICE OF ENFORCEMENT

Honorable Barry M. Hartman
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Re: Referral for Filing a Proof of Claim in the
Eagle-Picher Industries, Inc. Bankruptcy

Dear Mr. Hartman:

The purpose of this letter is to request the Department of Justice to file a proof of claim in the Eagle-Picher Industries, Inc. bankruptcy proceeding. This matter involves sites at which an affiliate company or subsidiary of Eagle-Picher is implicated. This request has been prepared and coordinated by my office in conjunction with EPA Regional Offices. We further request the Department of Justice represent EPA's interests throughout this bankruptcy action, in consultation with EPA attorneys. Sam Blesi of your office is already familiar with these matters.

The proof of claim should include CERCLA claims for facilities in Regions III, V, VI, and VII. In addition, this referral requests that Clean Water Act penalty counts be included in the proof of claim for Joplin Electronics, Joplin, MO in Region VII and Colorado Springs Facility, Colorado Springs, CO in Region VIII.¹ The following is a discussion of the various facilities within each Region and the claims associated with each.

¹ Please note that the Colorado Springs case also involves a RCRA 3008(h) Order on Consent issued to Eagle-Picher on December 31, 1986. By tracking Eagle-Picher's performance, EPA has determined that much of the work performed to date, although performed in a timely manner is inadequate, and EPA is seeking to amend the Order on Consent, agree to a new order, or file a unilateral order. EPA is presently assessing the extent of the violation and the penalties. If RCRA penalties are assessed, this claim should be included as administrative costs for the bankruptcy action. In addition, the state of Colorado is contemplating corrective action at the site.

REGION III

1. North Penn Area Twelve Site/Transicoil Superfund Site, Worcester, PA²

Transicoil, a subsidiary of Eagle-Picher, and Eagle-Picher are PRPs for this Site based on past ownership and operation of the facility and as lessee of the property. From 1952 until 1990 when operations ceased, the Transicoil facility was used for the manufacturing of DC and synchro-electric motors used in the aerospace industry. The Pennsylvania Department of Environmental Resources determined that Transicoil was the source of TCE contamination of well fields within the North Penn Area Twelve Site. Eagle-Picher and EPA entered into an Administrative Order on Consent on June 26, 1989, to perform a RI/FS pursuant to CERCLA. Eagle-Picher completed approximately 50% of the RI/FS. When Eagle-Picher petitioned for bankruptcy in January 1991, it refused to continue work on the RI/FS, except to perform interim response actions, such as sampling of residential water wells and installing carbon filters as necessary. Total EPA expenditures as of August 21, 1991, are \$162,016.00.

REGION V

1. Albion-Sheridan Township Landfill Superfund Site, Calhoun City, MI

This landfill was privately owned and operated from 1966 to 1981 and accepted both municipal and industrial wastes. About 6,000 cu. yards of metallic sludge from treatment of cyanide and plating wastes (chromium, lead, cadmium, and nickel), including dirt contaminated with casting sand and fly ash, were disposed of at the landfill. Union Steel, a subsidiary of Eagle-Picher³ until it was sold in 1982, arranged for disposal or arranged for the transportation for disposal of wastes from its foundry to the Site from 1966 to the 1970's. In March 1989, EPA issued a CERCLA 106 Order to Eagle-Picher and five other PRPs to perform the RI/FS. The order was not complied with and EPA is presently conducting the RI/FS. As of August 31, 1991, the past costs are

² On September 26, 1991, Region III sent to OE a referral providing information necessary to include a claim for administrative expenses for EPA's remedial response actions at the North Penn Area Twelve Site, also known as the Transicoil Superfund Site.

³ Eagle-Picher is a PRP of major significance in this case: The Agency's evidence against other PRPs in this case is not as strong as the evidence against Eagle-Picher.

\$76,412.58 for EPA's administrative and oversight costs.⁴ The future costs, including RI/FS and remedial action, are estimated to be between ten and fifteen million dollars.

2. Fisher-Calo Superfund Site, Kingsbury, IN

This solvent recycling facility was in operation from 1972 to 1984. Eagle-Picher, a generator PRP, contributed .555% volumetrically to the Site. EPA performed the RI/FS and issued the ROD in July 1990, with past costs totalling 4.5 million dollars. A Consent Decree with 300 settling defendants, not including Eagle-Picher, has been signed by the defendants and is with the State for signature. The Consent Decree settles for three million dollars of past costs and requires the settlers to perform the RD/RA. Thus, there remains outstanding about 1.5 million dollars in past costs.

REGION VI

1. Tar Creek Superfund Site, OK.⁵

From 1915-1959, Eagle-Picher owned mineral rights and operated mines at this Site. The State of Oklahoma conducted an RI/FS. The ROD was signed in 1984 and the selected remedy was completed by EPA in 1987-88.⁶ On June 10, 1991, EPA and six PRPs, not including Eagle-Picher, filed a Consent Decree ordering the PRPS to place \$1,273,000 in escrow, due to EPA thirty days after the lodging of the Consent Decree. A complaint against the settling PRPS and the Consent Decree with them was filed on April 23, 1991. Since Eagle-Picher was not a party to the complaint or the Consent Decree, outstanding past costs of about five million dollars should be included in the proof of claim.

⁴ The PRPs performed the removal at this Site; therefore, past costs are minimal and include administrative costs for the PRP search.

⁵ This is the Oklahoma state portion of the Tri-State Mining Area Superfund Site. This Tri-State district was at one time the world's largest producer of lead and zinc ore and the mines covered 500 square miles in three states: Oklahoma, Kansas, and Missouri. Mining began in the mid 1800's. The contamination at these sites involves both surface waste (mine tailings) and groundwater. The Tri-State Site involves two aquifers-- the Boone and the Roubidoux-- which are connected. There is presently a threat of contamination to the deep water aquifer, Roubidoux, the source of drinking water.

⁶ Presently, EPA is conducting its five-year review of the remedy.

REGION VII⁷1. Cherokee County Superfund Site, Cherokee County, KS⁸

The Galena sub-site has been the focus of EPA's investigations and response actions within the Cherokee Site ("Site"). Eagle-Picher is the current owner of property within the Galena sub-site, and Eagle-Picher or its predecessors owned and operated facilities where hazardous substances such as lead, cadmium, and zinc were disposed of at the time of ownership or operation and continue to be released through acid mine drainage and leachate from surface and subsurface mine wastes. Eagle-Picher arranged for disposal of hazardous substances at the Site. After performing RI/FS and removal actions at Galena, EPA issued two RODs for the sub-site in 1987 and 1989; the first for the provision of permanent alternative water supply system ("AWS") and the second for remediation of groundwater and surface water ("GW/SW"). In June 1990, a CERCLA 106 order was issued to Eagle-Picher and one other PRP. After both PRPs refused to comply, EPA decided to conduct the RD/RA. EPA has incurred costs of approximately four million dollars for RI/FS expenditures and expects to spend approximately six million dollars for the AWS ROD⁹ and approximately eight million dollars for the GW/SW ROD¹⁰; thus, future costs for Galena are expected to exceed fifteen million dollars.

For the Baxter Springs and Treece sub-sites, the RI/FS is presently underway pursuant to a May 8, 1990, Administrative Order by Consent among EPA and several PRPs, including Eagle-

⁷ On June 25, 1991, Region VII sent to DOJ an expedited referral and draft Proof of Claim for the collection of a penalty under the Clean Water Act (for Joplin Electronics) and for cost recovery and other relief under CERCLA (for Cherokee County Superfund Site and Jasper County Superfund Site).

⁸ This Site is the Kansas state portion of the Tri-State Mining Area Superfund Site. The Cherokee Site occupies approximately 110 square miles of an abandoned mine in the far southeast corner of Kansas. This Site has been divided into six sub-sites: Galena, Baxter Springs, Treece, Badger, Lawton, and Waco. Mining in the Galena sub-site peaked in 1920, and although the depression and the post-World War II economy forced the closing of many of the mines, mining activities continued through the 1960's; the last mine near Baxter Springs, Kansas was permanently closed in 1970.

⁹ EPA has completed the RD and has begun the RA for this ROD.

¹⁰ EPA has begun the RD for this ROD.

Picher. The ROD will probably be out in 1994 or 1995. Future costs for the five sub-sites, not including Galena, are unknown, but could exceed fifteen million dollars each. As of December 1990, total past costs for the entire Cherokee Superfund Site are approximately ten million dollars.

2. Jasper County Superfund Site, Jasper County, MO¹¹

This Site was added to the NPL in 1990. Private well-sampling indicates concentrations exceeding water quality standards for cadmium, nickel, lead, and zinc. Many areas within the Site are covered with large mine waste piles and are essentially void of vegetation.¹² Eagle-Picher owns property (former smelter) within the city of Joplin (within the boundaries of the Site) and arranged for the disposal of hazardous substances at the Site. Based on a preliminary PRP search report, EPA sent special notice letters to PRPs, including Eagle-Picher, on February 21, 1991, to commence formal negotiations. A group of nine PRPs, not including Eagle-Picher, is negotiating with EPA to perform the RI/FS. At the end of 1990, EPA's costs were \$264,000. Future costs are unknown, but could exceed 15 million dollars.

3. Joplin Electronics, Joplin, MO- Clean Water Act

The Region's June 25, 1991, referral requested a bankruptcy proof of claim be filed for Eagle-Picher's outstanding monetary obligations and stipulated penalties under the Clean Water Act Consent Decree. In 1989, Eagle-Picher settled with EPA for Clean Water Act violations for a total penalty amount of \$1.5 million to be paid over three years.¹³ As of the date of the referral,

¹¹ This Site is the Missouri state portion of the Tri-State Mining Area Superfund Site and covers approximately 200 square miles. This Site includes the former mining, milling, and smelting areas located in the southwest corner of Jasper County, MO.

¹² The Site contains an estimated 10 million tons of mining wastes.

¹³ Four equal installments of \$375,000 are due pursuant to the Consent Decree. Eagle-Picher has paid one installment and the next payment is due on October 29, 1991. In addition, the Consent Decree established stipulated penalties for failure to comply with requirements of its various provisions. The referral also mentions remedial actions required under the Consent Decree (monitoring and reporting of wastewater pollutants and environmental auditing and correction of identified conditions) and suggests a motion be filed with the bankruptcy court requesting these actions be carried out as administrative

\$1.125 million remained as a pre-petition obligation and \$1,500 in stipulated penalties had accrued; these outstanding penalty amounts should be included in the proof of claim.

REGION VIII

1. Colorado Springs Facility, Colorado Springs, CO-
Clean Water Act

In January 1989, EPA filed a complaint against the Eagle-Picher at the Colorado Springs facility for violations of Sections 309(e) and 307(d) of the Clean Water Act. Pursuant to the statute, the United States is entitled to collect up to \$10,000 per day for violations occurring before February 4, 1987, and up to \$25,000 for violations occurring after February 4, 1987. There is a tentative settlement for \$150,000.00 for various pre-treatment violations.

Sincerely,



Edward E. Reich
Actg. Asst. Administrator for
Enforcement

cc: Regional Counsels, Regions I - X
Eagle-Picher Regional Bankruptcy Contacts
Bruce M. Diamond, Director, Office of Waste
Programs Enforcement
John C. Cruden, Chief, Environmental Enforcement
Section, U.S. Department of Justice
Frederick F. Stiehl, Enforcement Counsel, OE-Water
Kathie A. Stein, Enforcement Counsel, OE-RCRA

expenses of the debtor in possession.

October 31, 1991

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE:)	CONSOLIDATED CASE NO.
)	1-91-00100
EAGLE-PICHER INDUSTRIES,)	Chapter 11 - Judge Perlman
INC., <u>et al.</u>)	
)	
Debtor.)	
)	
)	
)	
)	

PROOF OF CLAIM OF THE
UNITED STATES OF AMERICA ON BEHALF OF THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

1. This Proof of Claim is filed by the United States on behalf of the United States Environmental Protection Agency ("EPA"). The Attorney General is authorized to make this Proof of Claim on behalf of the United States. This Proof of Claim relates to the recovery of environmental response costs incurred or obligated by EPA at various sites under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601-9675, and for payment of civil penalties under the Clean Water Act, 33 U.S.C. § 1251 et seq. ("CWA"), for which Eagle-Picher is liable. This Proof of Claim also addresses fines and penalties arising from Eagle-Picher's non-compliance with Administrative Orders issued Under CERCLA Sections 104 and 106, 42 U.S.C. §§ 9604 and 9606.
2. Eagle-Picher is liable to reimburse the United States for the costs of actions taken by the United States in

response to releases and threatened releases of hazardous substances at a number of sites identified and described in Paragraph 8. Eagle-Picher is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). Section 107(a) provides that four separate categories of persons are liable for the costs incurred by the United States when it responds to releases and threatened releases of hazardous substances. These four categories are as follows:

- (1) the owner and operator of a vessel or facility;
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of;
- (3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances; and
- (4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such persons, from which there is a release, or

a threatened release which causes the incurrence of response costs, of a hazardous substance.

42 U.S.C. § 9607(a)(1)-(4).

3. Eagle-Picher has been identified by EPA as a party which has or may have incurred liability under Section 107(a) of CERCLA at the sites discussed in Paragraph 8. There were or are releases or threats of releases of hazardous substances at each of these sites. Response costs have been incurred by the United States at each site not inconsistent with the National Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and set forth at 40 C.F.R. § 300, as amended. The amounts incurred or obligated through the dates indicated below at each of the sites are set forth below. Response activities are continuing at these sites and additional costs will likely be incurred.

4. EPA is currently undertaking additional response activities in connection with the sites involved in this Proof of Claim and anticipates that additional response costs will be incurred at these sites. The United States reserves the right to amend this Proof of Claim to include the costs related to additional response actions undertaken during the pendency of these proceedings. It is the United States' position that the costs of any response actions that may be taken after confirmation of a plan of reorganization do not give rise to "claims" subject to discharge within the meaning of the Bankruptcy Code. If it is determined that costs of such future

response actions are "claims" subject to discharge in these proceedings, then the United States files this Proof of Claim for such future costs as well.

5. Eagle-Picher is a respondent to an Administrative Order issued by EPA pursuant to CERCLA Section 104, 42 U.S.C. § 9604, and two Administrative Orders issued by EPA pursuant to CERCLA Section 106, 42 U.S.C. § 9606. Eagle-Picher has also entered into a Consent Decree under the Clean Water Act. These Administrative Orders and the Clean Water Act Consent Decree, described further in Paragraphs 8(b)(1), (c), (d)(1), (d)(2), and (g) respectively, direct Eagle-Picher to perform remedial action at specified sites. The United States asserts that it is not required to file a proof of claim in connection with the Administrative Orders and/or Consent Decree and or any request for injunctive relief to the extent that Eagle-Picher's ongoing obligations to comply are not "claims" subject to discharge within the meaning of the Bankruptcy Code. To the extent the obligations are determined to constitute dischargeable claims, then the United States hereby files this Proof of Claim for all obligations under the Administrative Orders and Consent Decree.

6. Eagle-Picher is liable under Section 106(b)(1) for civil fines for non-compliance with the Administrative Orders issued to it by EPA. Section 106(b)(1) provides:

Any person who, without sufficient cause, willfully violates, or fails or refuses to comply with, any order of the President under subsection (a) of this section may, in an action brought in an appropriate district court to enforce such an order, be fined not more than \$25,000 for each day

on which such violation occurs or such failure to comply continues.

42 U.S.C. § 9606(b)(1).

7. Eagle-Picher is liable under Section 107(c)(3) for punitive damages for its non-compliance with the Administrative Orders issued to it by EPA. Section 107(c)(3) provides:

If any person who is liable for a release or threat of a release of a hazardous substance fails without sufficient cause to properly provide removal or remedial action upon order of the President pursuant to section 9604 or 9606 of this title, such person may be liable to the United States for punitive damages in an amount at least equal to, and not more than three times, the amount of any costs incurred by the Fund as a result of such failure to take proper action.

42 U.S.C. § 9607(c)(3).

8. The United States hereby files this Proof of Claim for the following sites:

(a). Tar Creek Site

Eagle-Picher is liable as the owner or operator of a facility at the time of disposal and as a generator at this site. The Tar Creek Site is a former lead and zinc mining area covering approximately forty (40) square miles in northeast Oklahoma. The Site is referred to historically as the Picher Mining Field portion of the Tri-State Mining Area, and was extensively mined from the late 1800s through the early 1960s. Eagle-Picher owned mineral rights and operated mines in the area. The Tar Creek Site is listed on the National Priorities List established pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605. As of

December 31, 1990, EPA had incurred recoverable response of at least \$4,000,000 in connection with the Tar Creek Site.

(b). Transicoil Site

Transicoil Inc., a subsidiary of Eagle-Picher, is liable as the owner or operator of a facility at the time of disposal and as a generator of hazardous substances disposed of at the Transicoil Site, located in the Township of Worcester, Pennsylvania. Transicoil operated the facility until August 1990, when it terminated its lease and transferred its operations to a new manufacturing plant located nearby. The Transicoil Site is listed on the National Priorities List established pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605.

(1) Pursuant to an Administrative Order On Consent entered into between the debtor and EPA on June 8, 1989 pursuant to CERCLA Section 106(a), 42 U.S.C. § 9606(a), the debtor agreed to implement fully the Remedial Investigation/Feasibility Study ("RI/FS") for the Site. As of January 11, 1991, the debtor had refused to complete the remainder of the RI/FS.

(2) Through August 21, 1991, EPA had incurred recoverable response costs of approximately \$162,000 in connection with the Transicoil Site.

(c). Albion-Sheridan Landfill

Union Steel Products, a subsidiary of Eagle-Picher until it was sold in 1982, arranged for the disposal or arranged for the transportation for disposal of hazardous substances at

the Albion-Sheridan landfill. In March 1989, EPA issued an Administrative Order pursuant to CERCLA Section 106, 42 U.S.C. § 9606, to the debtor and five other PRPs directing them to perform the RI/FS. The Administrative Order was not complied with and EPA is currently doing the RI/FS. As of August 31, 1991, EPA had incurred recoverable costs of \$76,000.

(d). Cherokee County Site

This 110 square mile site, located in the far southeast corner of the State of Kansas, is an abandoned mining site for lead and zinc ore. This site is referred to as the Kansas portion of the Tri-State Mining Area. This site has been divided into six sub-sites: Galena, Baxter, Treece, Badger, Lawton, and Waco. The Cherokee County Site is listed on the National Priorities List ("NPL") pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605. Eagle-Picher is liable as the owner or operator of a facility, the owner or operator at the time of disposal and as a generator at this site. Eagle-Picher currently owns and operates a lead sulfate manufacturing facility located on 40-50 acres within the Galena sub-site.

(1) On May 8, 1990, EPA issued an Administrative Order On Consent pursuant to Section 104(b) and 122 of CERCLA, 42 U.S.C. §§ 9604(b) and 9622, for Eagle-Picher and six other PRPs to perform the RI/FS on the Baxter and Treece sub-sites. The RI/FS is currently underway.

(2) On June 20, 1990, EPA issued a Unilateral Administrative Order ("UAO") to Eagle-Picher pursuant to 106(a)

of CERCLA, 42 U.S.C § 9606(a), for remedial action at the Galena sub-site. Eagle-Picher refused to comply with the UAO.

(3) As of December 1990, EPA had incurred response costs of approximately \$8.8 million (\$4.8 spent for alternative water supply, \$4 million for the RI/FS).

(e). Jasper County Site

The Jasper County Site covers 200 Square miles and includes former mining, milling and smelting areas located in the southwest corner of Jasper County Missouri. The Jasper County Site is listed on the NPL pursuant to CERCLA Section 105, 42 U.S.C. 9605. The site is divided into 10 sub-sites. Eagle-Picher is liable as the owner or operator of a facility, the owner or operator at the time of disposal and as a generator at this site. Eagle-Picher currently owns and operates three industrial facilities and owns the property of a former smelting facility, all of which are in the city of Joplin which is within one of the sub-sites.

EPA had incurred \$264,000 in response costs as of December 1990.

(f) Fisher-Calo Site: Eagle-Picher is liable as a generator of hazardous substances disposed of at the Fisher-Calo Site, located in Kingsbury, Indiana. The Fisher-Calo Site is listed on the National Priorities List established pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605. As of December 31, 1990 EPA had incurred recoverable response costs of at least \$4,500,000 in connection with the Fisher-Calo Site.

(g). Joplin Missouri Facility

Eagle-Picher is liable to EPA for payment of statutory penalties and stipulated penalties as ordered and required by the Consent Decree entered in United States v. Eagle-Picher Industries, Inc., Civil No. 87-5100-CV-SW-8 (W.D. Mo. filed September 29, 1990, modified January 4, 1991). (Attached as Exhibit 1.) The Consent Decree, which resolved alleged violations of the Clean Water Act, assessed a civil penalty of \$1,500,000 against Eagle-Picher. Eagle-Picher has paid the first of four installments of \$375,000 which has become due. The next installment was due on October 29, 1991. EPA files its claim for the remaining \$1,125,000. In addition, EPA files its claim for \$1,500 in stipulated penalties which have accrued pursuant to the requirements of the Consent Decree for this facility.

(h). Colorado Springs Facility

In January 1989, EPA filed a complaint in United States v. Eagle-Picher Industries, Inc. (Electronics Division, Colorado Springs Facility), for violation of Sections 309(e) and 307(d) of the Clean Water Act, 33 U.S.C. §§ 1319(e) and 1317(d). Sections 309(b) and (d) of the Act, 33 U.S.C. § 1319(b) and (d), as amended by Pub.L. 100-4 (1987), authorize the United States to collect civil penalties of up to \$10,000 per day of violation per day for each violation of the Act occurring before February 4, 1987; for violations occurring subsequent to February 4, 1987,

the United States is entitled to collect civil penalties of up to \$25,000 per day of violation.

9. Except as set forth herein, no judgments have been rendered on these claims.

10. Except as set forth herein, no payments to the United States have been made by Eagle-Picher on the claims asserted herein. All payments previously made by Eagle-Picher and other potentially responsible parties with respect to the sites that are the subject of this claim have been credited in asserting this claim.

11. These claims are not subject to any set-off or counterclaims.

12. No perfected security interests are held for these claims in the property of Eagle-Picher.

13. These claims are filed as administrative expense claims to the extent of response costs incurred post-petition on property of the debtors. The remainder of the claim is filed as a general unsecured claim.

Dated this _____ day of _____, 1991.

Respectfully submitted,



BARRY M. HARTMAN
Acting Assistant Attorney General
Environment and Natural Resources
Division



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